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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/900,254	07/25/1997	PETER PFEUFFER	22750/350	7919

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EXAMINER	
YAO, SAMCHUAN CUA	
ART UNIT	**PAPER NUMBER**
1733	

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	08/900,254	PFEUFFER, PETER	
	Examiner	Art Unit	
	Sam Chuan C. Yao	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 July 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al (US 4,496,583) in view of Narou et al (US 4,876,007)) and Norton (US 2,862,542) and further in view of (Thornton (US 4,772,443), Frank (US 5,492,580), DE 4024053 A1, and Gosden (US 3,616,167) for reasons of record set forth in an Examiner's Answer dated 10-04-06, and for reasons set forth hereinafter.

As for an added limitation in this claim regarding the bonding strength of non-woven fabric, such is taken to naturally flow from the modified process of Yamamoto et al in view of the similarity of the production processes between the presently claimed process and a modified process of Yamamoto et al. Also see Examiner's response to Counsel's arguments for details.

Note: Where ... the claimed and prior art products are identical or substantially identical, or are produced by identical or substantially identical processes, the PTO can require an applicant to prove that the prior art products do not necessarily or inherently possess the characteristics of his claimed product. **Whether the rejection is based on "inherency" under 35 USC § 102, on prima facie obviousness" under 35 USC § 103, jointly or alternatively, the burden of proof is the same, and its fairness is evidenced by the PTO's inability to manufacture products or to obtain and compare prior art products."** In re Best, 562 F2d 1252, 1255, 195 USPQ 430, 433-4 (CCPA 1977).

Response to Arguments

3. Applicant's arguments filed on 07-27-06 have been fully considered but they are not persuasive.

Counsel's arguments, on page 3 to page 5 line 6, regarding the 112 2nd paragraph rejection, Counsel's arguments are moot in light of this rejection has been withdrawn in response to the amendment.

Counsel argued that, *"... Specification states that known non woven fabrics suffer from the tendency to have "part of the non woven fabric surface [that] are bonded more strongly over the cross section than the remainder of the non woven fabric surface.""* (words *"that"* and *"known"* originally inserted and italicized, respectively; emphasis originally added). Examiner agrees. However, a known process, which was discussed in the specification, does not form a single fibrous web from *"undrawn and drawn synthetic fibers"*. Nor does it calenders a fibrous web using a pair of *"profiled calender rolls"*. Much less, form a web by calendering the web using profiled rolls, wherein the web includes *"undrawn and drawn synthetic fibers"*. A modified process of Yamamoto et al, however, would NOT "suffer from the *tendency to have "part of the non woven fabric surface [that] are bonded more strongly over the cross section than the remainder of the non woven fabric surface"" (quotation in original)*. As noted in the prior office action, while it is true that Yamamoto et al does not explicitly disclose the relative bonding strength of a non woven web, nonetheless, the non-woven web in a modified process of Yamamoto et al is reasonably expected to have a uniform

bonding strength in view of the similarity of the production processes between the modified process of Yamamoto et al and the claimed process.

The modified process of Yamamoto et al	**versus**	The claimed invention
a) uniformly blended undrawn and drawn synthetic fibers		undrawn and drawn synthetic fibers
b) preheated web		preheated web
c) unheated profiled calendar rolls		unheated profiled calender rolls
d) no flat bonding is used		no flat bonding is used

There is simply nothing in the claimed invention or even in the original disclosure as a whole, which provides any indication that the present invention is performing any special or unique process operation(s) (i.e. different from a modified process of Yamamoto et al), which enables one to form a non woven fabric, where *"the bonds pf the non woven fabric are of equal strength over its cross-section"*. If the modified process of Yamamoto et al and the claimed process are indistinguishable from each other, then it would be reasonable to expect that the characteristics such as having a uniformly bonded cross-section of a non-woven web from either processes would also be indistinguishable from each other. In fact, as correctly noted by Counsel on page 6 last paragraph lines 1-11, "... Yamamoto et al further describe that, when the dispersing properties of the staple fibers in water is not uniform, the properties of the non woven fabric are not satisfactory, e.g., not even." (emphasis added) This appears to suggest that

since the fibers in a web of Yamamoto et al are uniformly dispersed, then the bonding strength across its cross-section would be "even" or equal.

On pages 5-7, Counsel argued that Yamamoto et al is completely concerned with dispersing properties of staple in water. Accordingly, **"... there is consequently no discussion whatsoever in Yamamoto et al. of the strength of the bonds of the non woven fabric, ... The relative strength of the bonds of the non woven fabric, e.g., the bonds of the non woven fabric being of equal strength over its cross-section."**(bond-face in original). Examiner agrees. However, Counsel's arguments are off-point, because the issue here is whether or not the recited characteristic of *"the bonds of the non woven fabric being of equal strength over its cross-section"* naturally flows from the modified process of Yamamoto et al and NOT whether such is disclosed in Yamamoto et al. As has been repeatedly noted above, in view of the similarities of the production processes between the claimed invention and the modified process of Yamamoto et al, the characteristics of a non woven fabric in a modified process of Yamamoto et al and a claimed process would also be indistinguishable. That is: the bonding strength across a cross-section of the web is expected to be "even" or identical. So far, with all the drawn out arguments presented by Counsel, Counsel has not provided any objective argument or evidence to rebut Examiner's basis for asserting that the bonding strength over the cross-section of a web in a modified process of Yamamoto et al would be "even" or equal.

As for the case laws cited by Counsel, Examiner agrees with the conclusions of the court's opinions. However, contrary to Counsel's assertion, Examiner has provided sufficient reason/motivation on why one in the art would have modified the process of Yamamoto et al to arrive the presently claimed invention as evidence from the fact that BPAI has affirmed twice the basis of Examiner's rejection.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Chuan C. Yao whose telephone number is (571) 272-1224. The examiner can normally be reached on Monday-Friday with second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Richard Crispino can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sam Chuan C. Yao
Primary Examiner
Art Unit 1733

Scy
08-08-06